

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Application of)
HAWAIIAN TELCOM SERVICES COMPANY,)
INC. and HAWAIIAN TELCOM, INC.)
For Approval to Sell Hawaiian)
Telcom Services Company, Inc.'s)
Directory Publishing Business and)
Other Related Matters.)

DOCKET NO. 2007-0123

ORDER NO. 24010

Filed Feb. 4, 2008
At 1:30 o'clock P.M.

Karen Higashi.
Chief Clerk of the Commission

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DIV. OF CONSUMER ADVOCACY
DEPT. OF BUSINESS, LAND & NATURAL RESOURCES

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

Karen Higashi.

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ORDER

By this Order, the commission approves HAWAIIAN TELCOM SERVICES COMPANY, INC. ("HTSC") and HAWAIIAN TELCOM, INC.'s (collectively, "Applicants")¹ request for extensions of time to submit certain compliance reports in accordance with Decision and Order No. 23825, filed on November 13, 2007, in this docket ("Decision and Order No. 23825").

I.

Background

On November 13, 2007, the commission issued Decision and Order No. 23825 conditionally approving Applicants' joint application for commission approval to sell HTSC's directory publishing business to CBD Investor, Inc. ("Proposed

¹Applicants' direct parent is Hawaiian Telcom Communications, Inc. ("HTCI").

Transfer").² In addition to certain specific regulatory conditions,³ the commission also required Applicants in Decision and Order No. 23825 to submit certain monitoring reports within specific timeframes. Among various reports, the commission explicitly required:

1. Within 30 days after closing of the Proposed Transfer, Applicants shall provide the commission and the Consumer Advocate with . . . an accounting that demonstrates adherence to and compliance with Stipulated Regulatory Condition No. 3 ("Ordering Paragraph No. 3")⁴; and
2. Within 60 days of the date of Decision and Order No. 23825, Applicants shall submit a Debt Reduction Plan consistent with Section II.B of Decision and Order No. 23825 ("Ordering Paragraph No. 5").⁵

²Applicants' application requesting commission approval to sell HTSC's directory publishing business was filed on May 11, 2007. Copies of the same were served on the DIVISION OF CONSUMER ADVOCACY, DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS ("Consumer Advocate"), an ex officio party to this proceeding pursuant to Hawaii Revised Statutes § 269-51 and Hawaii Administrative Rules ("HAR") § 6-61-62. Applicants and the Consumer Advocate, the sole parties to this proceeding, are hereafter collectively referred to as the "Parties."

³These regulatory conditions, which were agreed-upon by the Parties, were referred to in Decision and Order No. 23825 as "Stipulated Regulatory Conditions", and adopted by the commission. See Decision and Order No. 23825 at 13-14.

⁴Stipulated Regulatory Condition No. 3 states that "Applicants shall use the entire net proceeds arising from the sale of the Hawaii Directory Publishing business to repay debt of HTCI that is outstanding as of the date of closing of the sale of the Hawaii Directory Publishing business." See Decision and Order No. 23825 at 14. Hereafter, this reporting requirement will be referred to as "Stipulated Regulatory Condition No. 3 Accounting Report."

⁵Section II.B of Decision and Order No. 23825 describes the Debt Reduction Plan as a plan with a targeted debt to equity ratio consistent with the directives of Decision and Order No. 21696, filed on March 16, 2005, in Docket No. 04-0140. Further, the commission stated that the plan should identify the projected date when Applicants (and HTCI) expect to obtain the targeted 65% debt level established by the commission and provide

By letter dated and filed on December 19, 2007, Applicants formally notified the commission that the Proposed Transfer effectively closed on November 30, 2007.⁶ Concurrently, Applicants submitted copies of the fully executed ancillary agreements (i.e., Contribution Agreement, Publishing Agreement, Billing and Collection Services Agreement, and License Agreement which were collectively referred to as the "Proposed Commercial Agreements" in Decision and Order No. 23825), with the commission and the Consumer Advocate in compliance with Ordering Paragraph No. 2 of Decision and Order No. 23825.⁷

On December 21, 2007, Applicants filed a letter requesting extensions of time to submit the Stipulated Regulatory Condition No. 3 Accounting Report (due on December 30, 2007)⁸ and the Debt Reduction Plan (due on January 12, 2008)⁹ ("Initial

comments and explanations for any intervening years that are projected to have substantial changes in debt or equity levels. The commission required Applicants to file the Debt Reduction plan within 60 days of the date of Decision and Order No. 23825, and provide updates, as necessary, until further order of the commission. See Decision and Order No. 23825 at 29-30.

⁶The formal notice of the closing was submitted in compliance with the first part of Ordering Paragraph No. 3 of Decision and Order No. 23825. See Decision and Order No. 23825 at 30-31.

⁷See Decision and Order No. 23825 at 30. The executed agreements were filed confidentially under Protective Order No. 23480, issued on June 5, 2007, in this docket.

⁸The deadline for the filing of the accounting report is December 30, 2007, since the Proposed Transfer effectively closed on November 30, 2007 (i.e., 30 days after closing of the Proposed Transfer).

⁹The deadline for the filing of the Debt Reduction Plan is January 12, 2008 (i.e., 60 days from the date of Decision and Order No. 23825).

Extension Request"). Afterwards, on January 23, 2008, Applicants submitted a subsequent letter modifying their request made in their Initial Extension Request with new proposed dates for the submission of the required filings ("Modified Extension Request").

II.

Discussion

HAR § 6-61-23(a)(1) authorizes the commission, for good cause shown, to order a period enlarged if a written request is made before the expiration of the period originally prescribed or as extended by a previous order.

In their initial letter, Applicants requested an extension of time from: (1) December 30, 2007, until June 30, 2008, to submit the Stipulated Regulatory Condition No. 3 Accounting Report (i.e., to fully comply with Ordering Paragraph No. 3); and (2) January 12, 2008, to 90 days following the satisfaction of Ordering Paragraph No. 3 to submit their Debt Reduction Plan (i.e., to satisfy Ordering Paragraph No. 5). For their original extension requests, Applicants represented that they required: (1) additional time and flexibility to determine the right combination of existing debt to retire in order to attempt to maximize the amount of their interest savings, and, once an appropriate combination is decided upon, satisfy the various loan covenants and other requirements in order to effectuate the pay down; and (2) sufficient time to

prepare the Debt Reduction Plan after the proceeds from the sale have been fully applied.

Subsequently, in their following letter, Applicants claim to have completed their analysis since submitting their Initial Extension Request and concluded that the "most prudent" use of the Proposed Transfer proceeds was to immediately pay down the existing bank term debt and a portion of HTCI's existing revolver.¹⁰ Thus, Applicants state that, effective as of January 17, 2008, HTCI completed its "use of the entire directory sale proceeds to pay down its debt in full compliance with Stipulated Regulatory Condition No. 3[.]"¹¹ Applicants anticipate needing approximately three (3) weeks to address various post year-end matters and prepare and submit the accounting required under Ordering Paragraph No. 3. Due to these factors, rather than the initially requested enlargement of time to June 30, 2008, Applicants now request an enlargement of time to February 15, 2008, to submit the Stipulated Regulatory Condition No. 3 Accounting Report.

Moreover, with regards to the Debt Reduction Plan, Applicants at this juncture request an enlargement of time until May 30, 2008, to submit the plan and satisfy Ordering Paragraph No. 5. Applicants recognize that under their proposed

¹⁰On this matter, Applicants represent that unlike the pay down of other debt held by HTCI, "the pay down of the bank term debt and revolver can be done immediately and is not subject to the extensive loan covenant requirements and asset sale provisions that the other forms of debt would be subject to." See Modified Extension Request at 2 n.4.

¹¹See Modified Extension Request at 2.

Initial Extension Request, Applicants would have had until May 15, 2008 (i.e., 90 days following the satisfaction of Ordering Paragraph No. 3) to submit the plan. Applicants contend that the additional 15 days (from their original proposed enlargement date) would allow Applicants and HTCI to "fully analyze and complete the Debt Reduction Plan after the various annual year-end closing and reporting activities are completed."¹²

Applicants represent that the Consumer Advocate does not oppose the extension requests outlined above, with the modified deadlines.¹³

Upon review, the commission finds good cause to approve Applicants' extension requests, as modified, regarding the filing of: (1) the Stipulated Regulatory Condition No. 3 Accounting Report; and (2) the Debt Reduction Plan. This finding is based on Applicants' various representations summarized above.

Based on the foregoing, the commission approves Applicants' extension requests, as modified, set forth in their letters dated December 21, 2007, and January 23, 2008, and outlined above. Specifically, the commission approves: (1) the extension of time from December 30, 2007, until February 15, 2008, for Applicants to submit their Stipulated Regulatory Condition No. 3 Accounting Report (to satisfy Ordering Paragraph No. 3); and (2) the extension of time from

¹²Id. at 3.

¹³See Initial Extension Request at 3; Modified Extension Request at 3.

January 12, 2008, until May 30, 2008, to submit Applicants' Debt Reduction Plan (to satisfy Ordering Paragraph No. 5).

III.

Orders

THE COMMISSION ORDERS:

1. Applicants' request for an extension of time, as modified, from December 30, 2007, until February 15, 2008, for Applicants to submit their Stipulated Regulatory Condition No. 3 Accounting Report (to satisfy Ordering Paragraph No. 3) is approved.

2. Applicants' request for an extension of time, as modified, from January 12, 2008, until May 30, 2008, to submit their Debt Reduction Plan (to satisfy Ordering Paragraph No. 5) is approved.

DONE at Honolulu, Hawaii FEB - 4 2008.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By John E. Cole
John E. Cole, Commissioner

APPROVED AS TO FORM:

By Leslie H. Kondo
Leslie H. Kondo, Commissioner

Ji Sook Kim
Ji Sook Kim
Commission Counsel

2007-0123.eh

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Order No. 24010 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

CATHERINE P. AWAKUNI
EXECUTIVE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
DIVISION OF CONSUMER ADVOCACY
P. O. Box 541
Honolulu, HI 96809

ALAN M. OSHIMA, ESQ.
JOEL K. MATSUNAGA
HAWAIIAN TELCOM SERVICES COMPANY, INC.
HAWAIIAN TELCOM, INC.
1177 Bishop Street
Honolulu, HI 96813

LESLIE A. UEOKA, ESQ.
HAWAIIAN TELCOM SERVICES COMPANY, INC.
HAWAIIAN TELCOM, INC.
1177 Bishop Street
Honolulu, HI 96813

KENT D. MORIHARA, ESQ.
MICHAEL H. LAU, ESQ.
RHONDA L. CHING, ESQ.
MORIHARA LAU & FONG LLP
Davies Pacific Center
841 Bishop Street, Suite 400
Honolulu, HI 96813

Outside Regulatory Counsel for HAWAIIAN TELCOM SERVICES
COMPANY, INC. and HAWAIIAN TELCOM, INC.



Karen Higashi

DATED: FEB - 4 2008